GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - East Godavari District – Revision Petition filed by Sri Bandaru Jagannadh Rao & Others S/o.Venkanna R/o.Tamarada (V) Kirlampudi (M), East Godavari District with regard to the land to an extent of Acs.6.40 cts of land in Sy.No.40 situated at Ramuludevapuram (V), Gangavaram (M) East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, East Godavari District in CMA No.60/2005 dated.22.10.05– Dismissed - Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.MS.No. 107 Dated: 16-11-2016
Read the following:-

1. Revision Petition filed by Sri Bandaru Jagannadh Rao & Others S/o.Venkanna R/o.Tamarada (V) Kirlampudi (M), East Godavari District dated:28.12.2005.
2. Govt.Memo.No.277/LTR-2/2006-1, dt.06.06.2006.
3. From the Additional Agent to Government, Rampachodavaram, East Godavari District R.C.No.T8/C.R.P.227 of 2006 in C.M.A.60 of 2005 in LTRP No.43 of 2004 Memo No.227/LTR-2/2006-1, Dated.6.6.2006.
4. Govt.Lr.No.TW-15026/17/2015-LTR-TW, Dated: 30.04.2016.

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ORDER:-

In the reference first read above, Sri Bandaru Jagannadh Rao & Others S/o.Venkanna R/o.Tamarada (V) Kirlampudi (M), East Godavari District has filed a Revision Petition before the Government with regard to the land to an extent of Acs.6.40 cts in Sy.No.40 situated at Ramuludevapuram (V), Gangavaram (M) East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, East Godavari District in CMA No.60/2005 dated.22.10.05.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Collector, East Godavari District, Kakinada to furnish the parawise remarks and connected records on the Revision Petition.

3. In the reference 3rd read above, the Project Officer, ITDA, Rampachodavaram, East Godavari District has furnished parawise remarks along with the connected records.

4. The claim of the revision petitioner is that the Government to stay all the further proceedings including dispossession of the petitioner from land of Ac.6.40 cts in Sy.No.40 of Ramulladevapuram, Gangavaram Mandal, East Godavari District and to pass orders allowing his revision petition.

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5. The main grounds of this Revision Petition are:

1. The orders of the 1st and 2nd respondents, Additional Agent to Government and Special Deputy Collector, Rampachodavaram, East Godavari District are contrary to the law, weight of the evidence and probability of the case.
2. The orders of the respondents are self contradictory and the findings are different and distinct on the same point.
3. The 1st respondent, Additional Agent to Government has failed to see that the land in Sy.No.40 to an extent Ac.6.40 cts is the patta land of the petitioners and it is not an assigned land.
4. The order of the 2nd respondent, Special Deputy Collector, Tribal Welfare Department, Rampachodavaram, East Godavari District has violated the principles of natural justice.
5. The petitioners claim that the authorities fail to see that there is no transfer of immovable property of petitioners from the tribals and it not hit under the regulations.
6. The Petitioners claim that the 1st respondent, Additional Agent to Government failed to consider the order in LTRP No.55/2000 dated 29.10.2000 which is final in which it was held that the land in Sy.No.40 to an extent of 6.40 cts was purchased by the petitioners in 1968 from non tribals who in turn purchased from non-tribals settlement pattadars and the transfer is between two non-tribals and the sale is valid under the provisions of regulations 1/70 etc.

6. The Special Deputy Tahsildar, Tribal Welfare, Gangavaram filed a case under sec 3(1)(a) of A.P.S.A.LTR 1/59 as amended by 1/70 for restoration of PS land to Government after ejecting the non-tribal respondents (Revision petitioners). It was stated by the Tahsildar that the action of the assignment in favour of the non-tribal respondent is in violation of section 3(1)(a) of Regulation 1/59 as amended by 1/70.

7. Accordingly Special Deputy Collector, Tribal Welfare in exercise of powers u/sec 3(2)(a) of APSALTR 1/59 as amended by 1/70 for the ejection of non tribal respondents namely Bandaru Narayana Rao and others from PS land in Sy.No.40 to an extent of Ac 6.40 cts and to restore the same to the government for onward assignment for eligible tribals.

8. Aggrieved by the above orders Sri Bandaru Jagannath Rao the revision petitioner herein preferred an appeal before the Ist respondent who is Additional Agent to Government.

9. The order of the Additional Agent to Government is that, there is no infirmity in the order of Special Deputy Collector (Tribal Welfare) and hence dismissed the appeal filed by the revision petitioners and upheld the orders of the lower court (Special Deputy Collector of Tribal Welfare).

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10. Aggrieved by the above orders, Sri Bandaru Jagannath Rao and others filed the revision petition before the Government.

11. According to the revision petitioners the order of the lower court was contrary to the law and against the principles of natural justice.

12. The petitioners claim that they are the absolute owners of the land in Sy.No.40 to an extent of Ac.6.40 cts in Ramuladevapuram village in Gangavaram Mandal, East Godavari District.

13. The petitioners 1 and 2, Sri Bandaru Jagannath Rao S/o.Venkanna and Bandaru Narayana Rao, S/o.Venkanna have failed to show that his name was entered as pattadar. There are no records available that the land was cultivated by them. The petitioners have not filed any valid registered documents in the lower court or before Additional Agent to Government to claim the land in LTRP 43/2004 in the appeal CMA 60/2005 and an order copy of the LTRP 55/2000 is silent about the registration and the documents filed before it.

14. Despite grant of several adjournments, the petitioner did not file any documents much less the socalled registered document before Government. The Government as Revisionary Authority is very liberal in receiving the documents from the parties at any stage of the case, in order to ensure that principle of Natural Justice are never violated.

15. The Government is of considered view regarding the disposal of an LTR case previously that even if the LTRP 55/2000 is dismissed, it does not operate as Res Judicata, much less when it was filed on a different cause of action, and decided between different parties.

16. Further, the impugned order of Additional Agent to Government and the Parawise remarks of the same are to the effect that the Revision Petitioners who are non-tribes are not entitled to continue in possession as they do not have any valid right and title and their possession is hit by the provisions of LT Regulation 1 of 59 and as amended by 1 of 70 and the subject land is a Government land. The G.O.971 dated 7.10.1969 prohibits assignment of Government land in favour of non-tribes, further, the Hon’ble Supeme Court in C.A. 4601 – 02 of

1997(1) with C.A. 4603/97 between Samatha Vs. Govt. of A.P. held that the word 'person' in section 3(1) would include both natural persons and as well as justice persons and constitutional Government and as such the transfer of land by juristic person or allotment of land by state of non-tribal stands prohibited.

17. The point for consideration is whether the order of learned Additional Agent to Government passed in CMA No.60/2005 dated 22.10.2005 is sustainable under law or liable to be interfered with?

18. The admitted facts are the Petition scheduled property measuring Ac 6.40 cts in survey No.40 was a Government land assigned to Bandaru Narayana Rao who sold to M.Lovaraju, then a case were filed in LTR 53/2000, 55/2000, 56/2000, 517/2000 before Special Deputy Collector (Tribal Welfare) concerning the land in Sy.No.40 measuring Ac.6.40 cts and the said case were disposed of on 29.10.2002 by common judgment whereby the case relating to LTR 55/2000 was dismissed.

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19. While so the Special Deputy Tahsildar filed another case in LTR 43/2004 before Special Deputy Collector, concerning the land covered by LTR 55/2000 against different parties than that person shown in LTR 55/2000.

20. The said case was tried and the same was allowed directing the ejectment of non-tribal respondents and their men from Petitioned Scheduled land and ordered for assignment to the eligible tribal.

21. Against the said order the appeal filed by the third Respondent (before primary authority) and another also was dismissed confirming the orders of Primary Authority by the Additional Agent to Government against the same the Revision Petition by the aggrieved before the Government.

22. The bone of the contention of the Revision Petitioners is that the orders under challenge are not sustainable. The dismissal of LTR 55/2000 operates as Res Judicata, the Regulation 1 of 70 is prospective.

23. While, so the Revision Petitioner filed Writ Petition before Hon'ble High Court in WP 473/2006 which was disposed of on 6.1.2006, directing the Government to dispose of Revision Petition and to maintain the status-quo with regard to possession during the pendency of Revision Petition.

24. Basically, the Regulation 1/59 is a special Regulation meant for the Welfare of Schedule Tribes and there is a overriding clause in the said Regulation which brushes aside any statue or rule, whichever is repugnant to the above regulation.

25. Further, the parties to LTR 55/2000 are Kunjum cottanadhora and Bandaru Jagannath Rao and Narayana Rao. No doubt the Respondent 3 is Respondent 3 in LTR 43/2004

also, but Special Deputy Tahsildar (Tribal Welfare) is the Petitioner there in where as K.Cottanadhora is Petitioner in LTR 55/2000. The contention of the Government through Special Deputy Tahsildar in LTR 43/2004 is that the subject land is Gayala of Government assigned to Narayana Rao, but the said Narayana Rao sold to M.Lova Raju in violation of the terms and conditions of D form patta and also in violation of provision of AP.SALT Regulation.

26. The cause of action of parties for LTR 43/2004 is all together different from that of LTR 55/2000.

27. As per the overriding clause under 3(1)(a) of AP.SA.LT Regulation, any provision of any statute which is contrary to the spirit of the said Regulation, shall be brushed aside and the alienation involving such Immovable Property shall be and void.

28. In the instant case, the Revision Petitioner before Government of A.P. failed to prove his possession on the other hand the whereabouts of Bandaru Narayana Rao are not known. Further the purchaser Lova Raju also is found to be an encroacher of the said property. The Adangal for 1406 reveals that Petitioned Schedule land is under the enjoyment of M.Lovaraju as cowldar.

29. The said fact proves that Narayana Rao the Assignee of Government land is not in possession and he gave lease of said land to 1st respondent

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M.Lovaraju who is also a non-tribe. Lease also amounts to transfer as prohibited under sec 3(1)(a) and 3(2)(a) of the Regulation.

30. Sec. 2(g) defines transfer which includes lease also. Against the said evidence, the revision petitioners failed to rebut the same.

31. They also, in spite of several opportunities did not place any material to disprove the same.

32. The CPC is not applicable to the extent it is contrary to AP.SA.LT Regulation which always empowers authorities to eject whenever prohibited alienation is found.

33. Hence the Government is of considered view that the order of ejectment of M.Lovaraju and other Respondents, as passed by the Special Deputy Collector, in LTR 43/2004 is perfectly right, the dismissal of the appeal by the Learned Agent to Government is also in consideration of both fact and law in the correct perspective and the said order does not warrant for any interference.

34. In the result, the Revision Petition is dismissed.

35. The Additional Agent to Government and Project Officer, ITDA, Rampachodavaram, East Godavari District is requested to take necessary action in the matter accordingly.

36. The original record bearing CMA No.60/2005 received from the Additional Agent to Government, Rampachodavaram, East Godavari District through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Kakinada, East Godavari District.
The Additional Agent to Government & Project Officer, ITDA Rampachodavaram, East Godavari District.(w.e.)
The Special Deputy Collector, (Tribal Welfare) Rampachodavaram, East Godavari District.

Copy to:
Sri Badana Bhaskara Rao, Srinivas, Advocates, 201, Royal Residency, H.No.10-4-34/1, St.Therasa's High School Lane, Humayun Nagar, Hyderabad – 500 028.
Sri Bandaru Jagannath Rao, S/o.Venkanna, R/o.Tamarada Village, Kirlampudi Mandal, East Godavari District.
Sri Bandaru Narayana Rao, S/o.Venkanna, R/o.Tamarada Village, Kirlampudi Mandal, East Godavari District.
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER